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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2008-356

12 **THOMAS EDWARD MORIARTY**
86 Golden Gate Circle
13 Napa, CA 94558

A C C U S A T I O N

14 Registered Nurse License No. 663003

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant), brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
21 (Board), Department of Consumer Affairs.

22 2. On or about August 9, 2005, the Board issued Registered Nurse License
23 Number 663003 to Thomas Edward Moriarty (Respondent). The license expired on April 30,
24 2007, and has not been renewed.

25 **JURISDICTION / STATUTORY PROVISIONS**

26 3. This Accusation is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code (Code) unless
28 otherwise indicated.

1 4. Code section 2750 provides, in pertinent part, that the Board may
2 discipline any licensee, including a licensee holding a temporary or an inactive license, for any
3 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4 5. Code section 2764 provides, in pertinent part, that the expiration of a
5 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
6 against the licensee or to render a decision imposing discipline on the license.

7 6. Code section 820 states:

8 “Whenever it appears that any person holding a license, certificate or permit
9 under this division or under any initiative act referred to in this division may be unable to
10 practice his or her profession safely because the licentiate’s ability to practice is impaired due to
11 mental illness, or physical illness affecting competency, the licensing agency may order the
12 licentiate to be examined by one or more physicians and surgeons or psychologists designated by
13 the agency . . .”

14 7. Code section 821 states:

15 “The licentiate’s failure to comply with an order issued under Section 820 shall
16 constitute grounds for the suspension or revocation of the licentiate’s certificate or license.”

17 CAUSE FOR DISCIPLINE

18 (Failure to Comply with Psychological Examination Order)

19 8. Respondent is subject to disciplinary action under Code section 821 for
20 failure to timely comply with the Board’s order for psychological examination. The
21 circumstances are as follows:

22 9. On or about July 10, 2008, the Board issued an Order Compelling
23 Psychological Evaluation pursuant to Code section 820 requiring Respondent to submit not more
24 than 30 days from service of the order to examination by a physician and surgeon specializing in
25 psychiatry or by a psychologist to determine whether his competency to safely practice nursing is
26 impaired due to mental and/or physical illness. The order was properly served on Respondent on
27 July 15, 2008. Respondent failed to comply with the Board’s order and has not made contact
28 with board staff since it was served.

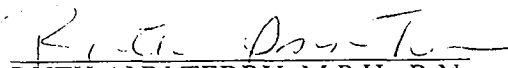
1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 663003, issued
5 to Thomas Edward Moriarty;

6 2. Taking such other and further action as deemed necessary and proper.

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8 DATED: 10/7/08

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11 RUTH ANN TERRY, M.P.H., R.N.
12 Executive Officer
13 Board of Registered Nursing
14 Department of Consumer Affairs
15 State of California
16 Complainant
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